

**FILED**

**MAR 31 2014**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

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In the matter of the Request for Agency )  
Action of MAGNUM NGLS SOLUTION )  
MINING, LLC, for an order authorizing )  
operation of underground natural gas )  
liquids storage caverns underlying )  
portions of Sections 22, 23, 26 and 27 of )  
Township 15 South, Range 7 West, )  
S.L.M., Millard County Utah )

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**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
AND ORDER**

Docket No. 2014-014

Cause No. 282-01

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On March 26, 2014, the Board of Oil, Gas and Mining ("**Board**") heard the Request for Agency Action of Magnum NGLs Solution Mining, LLC ("**Magnum**"), for an Order Authorizing Operation of Underground Natural Gas Liquids Storage Caverns Underlying Portions of Sections 22, 23, 26 and 27 of Township 15 South, Range 7 West, S.L.M., Millard County Utah. The hearing took place in the Hearing Room of the Utah Department of Natural Resources at 1594 West North Temple Street, in Salt Lake City, Utah.

The following Board members were present and participated in the hearing: Chairman Ruland J. Gill, Jr., Kelly Payne, Carl F. Kendell, Michael R. Brown, and Gordon L. Moon.

J. Craig Smith and Kathryn J. Steffey of Smith Hartvigsen, PLLC, represented Magnum, and Samuel Quigley, General Manager; Tiffany James, Vice President, Project Development and Government Affairs; and Thomas Eyermann, Magnum's Solution Mining Consultant Engineer; appeared as witnesses for Magnum.

John Andrews, Associate Director and Chief Legal Counsel for the Utah School and Institutional Trust Lands Administration, and Candace C. Cady, Environmental Scientist at Utah Department of Environmental Quality, Division of Water Quality were present and participated in the hearing.

Assistant Attorney General Michael S. Johnson represented the Board; and Assistant Attorneys General, Kassidy J. Wallin and Douglas J. Crapo represented the Division of Oil, Gas and Mining (“**Division**”). John Rogers, Associate Director for the Division, was present and testified as a witness during the hearing.

**NOW THEREFORE**, the Board, having fully considered the testimony adduced and the exhibits received at the hearing, being fully advised, and good cause shown hereby makes and enters the following Findings of Fact, Conclusions of Law, and Order:

#### **FINDINGS OF FACT**

1. Notices of the time, place, and purpose of the March 26, 2014 hearing were mailed to all interested parties, and were duly published in newspapers of general circulation as required by Utah Administrative Code Rule R641-106-100 (2013). Copies of the Request for Agency Action were likewise mailed to all interested parties pursuant to Rule R641-104-135.
2. No objections or comments were raised by an interested party or the general public.
3. Magnum has created—and is creating—caverns to store natural gas liquids (“**NGLs**”) in a salt dome underlying Sections 22, 23, 26, and 27 of Township 15 South, Range 7 West, S.L.M., Millard County Utah. The caverns for which Magnum seeks approval currently

include: Cavern Well 5, Cavern Well 6, Cavern Well 7, Cavern Well 8, and Cavern Well 9 (collectively, with all future NGL-storing wells, “**Cavern Wells**”).

4. Magnum, through its evidence and testimony, established that the wells and caverns subject to this order will store only brine and NGLs that are of a pipeline quality and not liquid at standard temperature and pressure.

5. Magnum, through its evidence and testimony, established that many different federal, state, and county organizations regulate Magnum’s project to ensure the safety of the truck and railroad facilities, the brine pond, the utility lines, the facility safety, subsidence concerns, water rights, and groundwater quality.

6. Magnum, through its evidence and testimony, established that Magnum is awaiting a final approval from the Utah Division of Water Quality certifying that API Well No. 43027500020000 passed a Mechanical Integrity Test.

7. Magnum, through its evidence and testimony, established that Magnum has contractual obligations to be able to receive NGLs by April 1, 2014.

8. Magnum, through its evidence and testimony, established that it does not have current plans to market the salt, which is a byproduct of creating and maintaining the storage caverns.

9. Magnum submitted its Storage Cavern Field Operating Plan (“**Operating Plan**”), which the Division reviewed. It is the opinion of the Division that the Operating Plan protects the public health, safety, welfare, and the environment.

## **CONCLUSIONS OF LAW**

1. Due and regular notice of the time, place, and purposes of the March 26, 2014 hearing was given to all interested parties in the form and manner and within the time required by law and the rules and regulations of the Board. Due and regular notice of the filing of the Request for Agency Action was given to all interested parties in the form and manner and within the time required by law and the rules and regulations of the Board.

2. The Board has considered and decided this matter as a formal adjudication, pursuant to the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-204 to -208 (West 2009), and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R. R641.

3. The Board has jurisdiction over the parties and subject matter of this Request for Agency Action. Utah Code Ann. § 40-6-5 (West 2013).

4. Because the NGLs Magnum intends to store are of pipeline quality and not liquid at standard temperature and pressure, Magnum's wells are not Class II injection wells as defined under the Underground Injection Control permit program. 40 C.F.R. §§ 144.1(g)(2)(iv), 146.5(b)(3) (2013); Utah Admin. Code R. R649-1-1.

5.

## **ORDER**

**IT IS THEREFORE ORDERED** that:

1. Magnum's Request seeking approval of the NGL storage project is granted.

2. Magnum may commercially store NGLs in its Cavern Wells that comply with Magnum's Operating Plan so long as the Division of Oil, Gas and Mining authorizes the drilling of the well through the APD permit program and so long as the Utah Division of Water Quality certifies each Cavern Well as having successfully completed a Mechanical Integrity Test.

3. Magnum's operation of the Cavern Wells is subject to, and must comply with, all statutory requirements found in chapter 6 of title 40 of the Utah Code and all rules promulgated under that chapter, including Rules R641 and R649 of the Utah Administrative Code (the **"Applicable Statutory and Regulatory Provisions"**).

4. Magnum must continue to comply with the Operating Plan, which the Division has approved, to the extent that the Operating Plan's provisions are not contrary to the Applicable Statutory and Regulatory Provisions. To the extent a conflict exists between any provision in the Operating Plan and the Applicable Statutory and Regulatory Provisions, the Applicable Statutory and Regulatory Provisions shall govern Magnum's operation of the Cavern Wells.

5. Amendments to the Operating Plan must be approved by the Division. If the Division does not approve an amendment, Magnum may appeal that decision to the Board.

6. The Division has the authority to issue violations and orders to cease operations when it is necessary to protect public health, safety, welfare, and the environment.

6. If Magnum ever intends to market its salt byproduct, it is subject to and must comply with all statutory requirements found in chapter 8 of title 40 of the Utah Code and all rules promulgated under that chapter, including Rules R647 of the Utah Administrative Code.

7. This Findings of Fact, Conclusions of Law, and Order (“Order”) is based exclusively upon evidence of record in this proceeding or on facts officially noted, as weighed and analyzed by the Board in the application of its expertise as set forth in Utah Code section 40-6-4(2)(a) through (e). This Order constitutes the signed written order stating the Board’s decision and the reasons for the decision, as required by the Utah Administrative Procedures Act, Utah Code Ann. § 63G-4-208, and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, Utah Admin. Code R. R641-109; and constitutes a final agency action as defined in the Utah Administrative Procedures Act and Board rules.

8. **Notice of Right of Judicial Review by the Supreme Court of the State of Utah.** As required by Utah Code section 63G-4-208(e) through (g), the Board hereby notifies all parties to this proceeding that they have the right to seek judicial review of this Order by filing an appeal with the Supreme Court of the State of Utah within thirty days after the date this Order is entered. Utah Code Ann. §§ 63G-4-401(3)(a), -403.

9. **Notice of Right to Petition for Reconsideration.** As an alternative, but not as a prerequisite to judicial review, the Board hereby notifies all parties to this proceeding that they may apply for reconsideration of this Order. Section 63G-4-302 of the Utah Code, entitled “Agency Review – Reconsideration,” states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63–46b–12 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

- (b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.
- (2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.
- (3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.
- (b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id.

10. The Rules of Practice and Procedure before the Board of Oil, Gas and Mining entitled “Rehearing and Modification of Existing Orders” state:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of that month.

Utah Admin. Code R. R641-110-100.

11. See Utah Administrative Code Rule R641-110-200 for the required contents of a petition for rehearing. The Board hereby rules that should there be any conflict between the deadlines provided in the Utah Administrative Procedures Act and the Rules of Practice and Procedure before the Board of Oil, Gas and Mining, the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the aggrieved party may seek judicial review of the order by perfecting an appeal with the Utah Supreme Court within thirty days thereafter.

12. The Board retains exclusive and continuing jurisdiction of all matters covered by this Order and of all parties affected thereby; and specifically, the Board retains and reserves exclusive and continuing jurisdiction to make further orders as appropriate and authorized by statute and applicable regulations.

13. The Chairman's signature on a facsimile copy of this Order shall be deemed the equivalent of a signed original for all purposes.

DATED this 31st day of March, 2014.

**STATE OF UTAH  
BOARD OF OIL, GAS AND MINING**

  
Ruland J. Gill, Jr., Chairman



**CERTIFICATE OF SERVICE**

I hereby certify that I caused a true and correct copy of the foregoing **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER** for Docket No. 2014-014, Cause No. 282-01, to be mailed with postage prepaid, via E-mail or First Class Mail, this 31st day of March, 2014, to the following:

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